

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

WRIT PETITION NO : 4821 of 1995

Between:

- 1 Konada Surya Prakasa Rao, S/o. K.Yerakayya,
R/o. Vijayawada.
- 2 Delhi Mahalakshmaiah, S/o. Late D.Surayya,
R/o. Adivinekkalam, Krishna Dist.
- 3 Pinni Boyina Rama Rao, S/o. P.Basavayya,
R/o. Madalavari Gudem, Gannavaram Mandalam,
Krishna Dist.
- 4 Smt. Katragadda Sukaveni, W/o. K.Chinchayya,
R/o. Adivinikkalam, Krishna Dist.
- 5 Ghanta Durga Rao, S/o. G.Rama Seshayya,
R/o. Adivinikkalam, Akiripalli Mandalam.

..... PETITIONERS

AND

- 1 Commissioner Survey Settlements and Land Records,
A.P. Namapally Road, HYDERABAD.
- 2 Director of Settlements,
Gaganvihar, M.J.Market Road, Nampally,
HYDERABAD.
- 3 Settlement Officers,
Eluru (Now) at Visakhapatnam.
- 4 Gaddam Jonatham, S/o. G.Hanumantha Rao,
Uddipeta, Ward No.29,
Vijayawada.
- 5 Tahsildar , Nuzivid Now M.R.O,
Akripalli Mandalam, Krishna Dist.

.....RESPONDENTS

- The Court made the following :**

ORDER:

This writ petition is filed to quash the order of the first respondent passed in his proceedings bearing No. CSS & LR.No. P2/1185/85 dt.19.4.1994 with a consequential direction restoring the order of 2nd respondent passed in E.P.No.182/72-AA1 dt. 4-11-1974 and the order of 3rd respondent passed in S.R.No.11(A)5/67 dt.31-3-1972 granting ryotwari patta to 1st petitioner to the schedule lands.

The brief facts of the case are that the schedule land of Ac 21-30 cents situate in R.S.No. 319 of Adavinekkalam village, Agiripalli Mandal, Krishna District is originally a part of Gannavaram Zamin estate in Krishna District. The erstwhile Zamindar granted patta No. 232 to one K. Venkateswara Rao and another in 1943.

The estate was abolished in the year 1948. The first petitioner purchased Ac 21-30 cents from one of the sharers under a registered sale deed dt. 27-7-53. During survey operations, the land purchased by him was shown in the occupation of individuals including fourth respondent omitting the name of the first petitioner. The first petitioner filed a petition under Section 11 (A) of the Estates Abolition Act (Act 26/48) for grant of ryotwari patta for the schedule land before the Settlement Officer, Visakhapatnam. The Settlement Officer, Visakhapatnam took up suo-motto enquiry and rejected the claim. So the first petitioner filed a Revision Petition i.e., R.P. 77/66 before Director of Settlements, Hyderabad challenging the order of rejection passed by the Settlement Officer, Eluru. The Director of Settlements, Hyderabad, allowed the R.P and remanded the matter to Settlement Officer for fresh enquiry.

The Settlement Officer, Visakhapatnam, took up the matter and numbered the petition as S.R. 11(A) 5/67. The Settlement Officer, after due enquiry, granted patta in favour of the first petitioner in respect of an extent of 8 acres by order dated 31/3/1972. The first petitioner against the afore mentioned order, again filed a revision R.P.No.182/72 before Director of Settlements, Hyderabad, claiming ryotwari patta for the remaining extent of Ac 13-30 cents in R.S.No.319. The Director of Settlements, Hyderabad, after elaborate hearing, allowed the revision by order dated 4-11-74 granting ryotwari patta to the remaining extent of Ac.13-30 cents. The fourth respondent filed a revision i.e., R.P. No. P2/1185/85 before the first respondent claiming that he is the owner of an extent of Ac 5-26 cents out of the total extent in the year 1985. Prior to that the fourth respondent filed O.S. No. 61 of 1983 before the District Munsif, Nuzvid for Permanent Injunction in respect of 2 acres in R.S.No. 319. The said suit was dismissed in December 1984.

The first respondent vide order date 19-4-1994 in P2/1185/85, while rejecting the claim of fourth respondent, erroneously set aside the aforementioned two orders (order dated 31-3-72 by Settlement Officer, Visakhapatnam and order dated 4-11-74 by Director of Settlements, Hyderabad.) Hence, the writ petition.

No counter affidavit is filed by the respondents.

Heard the learned counsel for the petitioner.

It has been argued by the counsel appearing on behalf of the first petitioner that one Gaddam Jonatham, 4th respondent herein, preferred a revision before the first

respondent in respect of the land of Ac 5.26 out of Ac 21.30 acres in R.S.No. 319. The first respondent, while rejecting the claim of the 4th respondent, erroneously set aside the two orders of the second respondent and the third respondent granting pattas to the first petitioner for the schedule lands which are not the subject matters in the said revision. Hence, the impugned proceeding of the first respondent dt. 19.4.1994 is liable to be quashed.

A reading of the impugned order goes to show that the first respondent has set aside the proceedings issued by the Settlement Officer i.e., third respondent on 31-3-1972 and the proceedings of the 2nd respondent in RP No. 182/72/AA1 dt. 4-11-1974, purporting to exercise of the powers under Section 118. The learned Counsel has brought to the notice of the Court that the above proceedings are not the subject matters before the first respondent and that the fourth respondent was not a party before the Settlement Officer. Admittedly, when the revision RP No.182/72/AA1 dt. 4.11.1974 was filed only in respect of Ac 13.30 cents and RP No.11/85 was for an extent of Ac 8.00 cents, the Commissioner ought not to have gone in to the merits of the case in respect of those proceedings, which are not the subject matters before him. In view of the fact that the first respondent has proceeded to cancel the patta issued to the first petitioner in respect of Ac 8.00 cents in R.S. No. 319, it has to be held that 1st respondent has exceeded the scope of the revision.

Under the above circumstances, the impugned order is set aside and the matter is remanded to the Commissioner, Survey Settlements and Land Records, A.P., Hyderabad, to pass appropriate orders within a period of three months after affording opportunity to both parties in accordance with law.

The writ petition is allowed accordingly. No costs.

T. MEENA KUMARI J

Dt. 17-2-2005

Kvrk

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Seventeenth day of February two thousand and five.

Asst. Registrar

To

- 1 The Commissioner Survey Settlements and Land Records,
A.P. Nampally Road, HYDERABAD.
- 2 The Director of Settlements, Gaganvihar, M.J. Market Road, Nampally,
HYDERABAD.
- 3 The Settlement Officers, Eluru (Now) at Visakhapatnam.
4. Two CCs to GP for Revenue.
5. Two CD copies.

HON'BLE SMT JUSTICE T MEENA KUMARI

WRIT PETITION NO. 4821 OF 1995

21st FEBRUARY 2005